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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,111	10/24/2003	Donald E. Toht	3165 P 067	1644

7590 03/25/2004

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EXAMINER

CEGIELNIK, URSZULA M

ART UNIT PAPER NUMBER

3712

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/693,111

**Applicant(s)**

TOHT ET AL.

**Examiner**

Urszula M Cegielnik

**Art Unit**

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10 and 12-20 is/are rejected.
- 7) ☒ Claim(s) 6 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**0DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 recites the limitation "the 200% modulus" and "the 300% modulus" in line 1 and 2, respectively. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-10, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman et al.

Norman et al. disclose a poseable doll having articulated limbs measuring less than 8 centimeters (col. 1, lines 63-67). The doll has garments made of polymeric material (col. 1, lines 28-45) that may be removeably donned on the doll (col. 1, lines 25-27); that article may be made from rubber (col. 1, lines 25-27); the article as a low stiction interaction with the doll and the flexibility and form of the article allow uninhibited movement of the moveable joints of the doll (col. 2, lines 36-46). The reference further teaches that one garment can be donned over another, e.g, a jacket over a dress (col. 2, lines 45-46).

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Norman et al. do not disclose the polymeric material having a 100% modulus of greater than 220psi ( $1517 \text{ k Nm}^{-2}$ ); the 200% modulus being above 330psi ( $2275 \text{ kNm}^{-2}$ ), and the 300% modulus above 440psi ( $3034 \text{ kNm}^{-2}$ ).

It would have obvious to one having ordinary skill in the art at the time the invention was made to provide a polymeric material having the abovementioned claimed values, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)

Norman et al. disclose the claimed invention except for the polymeric material being chlorinated olefin or melt-processible rubber. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a polymeric material being chlorinated olefin or rubber (melt-processible), since the examiner takes Official Notice of the equivalence of chlorinated olefin and melt-processible rubber for their use in the moldable plastics art and the selection of any of these shown equivalents to molded polymeric articles would be within the level of ordinary skill in the art.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Norman et al. in view of Shannon.

Norman et al. discloses the claimed invention except for the doll being formed of polypropylene.

Shannon teaches a doll formed of polypropylene.(col. 4, lines 55-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the doll formed of polypropylene as taught

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by Shannon, since Shannon states col. 2, lines 57-59, that such a modification would permit surface details to be printed.

***Allowable Subject Matter***

Claims 6 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 703-306-5806. The examiner can normally be reached on Monday through Friday, from 5:30AM - 2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 703-308-1745. **The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-5648.

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3712



**DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
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